IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2478 OF 2006

Smt.Pushpabai Markas Hiwarale. .. Petitioner

Vs.

State Bank of India. .. Respondent

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Shri Abhay Kulkarni for the Petitioner.

Shri Atul Damle for the Respondent.

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CORAM : R.M.S.KHANDEPARKAR &
D.G.KARNIK, JJ

DATED : 12TH JUNE, 2007

P.C.

1. Heard. The petitioner challenges the order dated 18th August, 2005 passed by the State Bank of India rejecting the application for employment on compassionate ground and prays for direction to the authority for reconsideration of her application in that regard.

2. The challenge is on the ground that there has been discrimination in relation to the petitioner while rejecting her application as the persons situated in a similar situation like the son of Ramesh A. Koteshwar have been granted employment on

compassionate ground inspite of the fact that the total assets and family pension to the family of the said Lokeshwar are much higher than that of the family of the petitioner, wife of the deceased. The attention was also drawn to the order of the Apex Court in **State Bank of India & Ors. v. Akeel Ahmed Khan** delivered on 4th April, 2005 in Civil Appeal No.2410 of 2005.

3. The learned advocate appearing for the respondent/bank, on the other hand, submitted that the scheme under which the petition was filed by the petitioner is not in force, and therefore, the question for reconsideration of the application of the petitioner does not arise. It is settled law that an employment opportunity on compassionate ground is not as a matter of right and it depends upon the various factors including the availability of the posts as well as absolute requirement of the employment to the family members of the deceased employee taking into consideration his or her financial conditions. In the case of the petitioner, the respondent/bank, after taking into consideration the total amount of terminal benefits which have been made available to the family of the petitioner on the death of the husband of the petitioner as well as pension payable to her and

immovable property belonging to the petitioner, has rejected her application for employment on compassionate ground.

4. As regards the contention about favouritism shown to the son of the deceased Ramesh A. Koteshwar, the then Deputy General Manager, there cannot be any comparison between the financial condition of the family of the then Deputy General Manager and that of the family of the petitioner whose husband was holding only the post of Head Messenger.

5. The order of the Apex Court undoubtedly records that while granting appointment on compassionate ground, the principles should be followed without any discrimination and all the applications in that regard should be considered on merits in accordance with the provisions of law. In the case in hand, the application of the petitioner having been considered on the basis of the materials placed before the concerned authority and as we do not find any discrimination in that regard and as there cannot be comparison between the financial condition of the family of Ramesh A. Koteshwar, the then Deputy General Manager and that of the family of the petitioner whose husband was holding the post of Head

Messenger, apart from the fact that number of family members in both the families differ, there can be no right to the petitioner to seek employment on compassionate ground, and hence the question of issuing mandamus in the nature asked for does not arise and hence the petition fails and is hereby rejected.

(R.M.S.KHANDEPARKAR, J)

(D.G.KARNIK, J)